



DEPARTMENT OF
FINANCE

EDMUND G. BROWN JR. - GOVERNOR

915 L STREET ■ SACRAMENTO CA ■ 95814-3706 ■ WWW.DOF.CA.GOV

December 15, 2012

Ms. Francesca Tucker-Schuyler, Interim City Administrator
City of Montebello
1600 West Beverly Boulevard
Montebello, CA 90640-3932

Dear Ms. Tucker-Schuyler:

Subject: Low and Moderate Income Housing Fund Due Diligence Review

This letter supersedes Finance's original Low and Moderate Income Housing Fund (LMIHF) Due Diligence Review (DDR) determination letter dated November 9, 2012. Pursuant to Health and Safety Code (HSC) section 34179.6 (c), the City of Montebello Successor Agency (Agency) submitted an oversight board approved LMIHF DDR to the California Department of Finance (Finance) on October 11, 2012. Finance issued a LMIHF DDR determination letter on November 9, 2012. Subsequently, the Agency requested a Meet and Confer session on one or more items adjusted by Finance. The Meet and Confer Session was held on December 6, 2012.

Based on a review of additional or clarifying information provided to Finance during the Meet and Confer process, Finance continues to believe the adjustments made to the DDR's stated balance of LMIHF available for distribution to the taxing entities is appropriate. HSC section 34179.6 (d) authorizes Finance to make these adjustments. We maintain the adjustments continue to be necessary for the following reasons:

- The Agency contends the \$9.1 million retention is required as security under their bond documents and therefore, is encumbered through a pledge to satisfy debt service obligations for three separate bond issuances. Finance originally denied the item because the Agency had not adequately proven there will be insufficient property tax revenues to pay for \$9.1 million in obligations. However, per the bond indentures, all housing set-aside revenues received by the Agency during any bond year in excess of the amount required to be deposited in the Housing Bond Payment Account during such bond year shall be released from the pledge and lien; and shall be deposited in the housing fund (LMIHF) to be applied by the Agency for any lawful purposes of the housing fund. Therefore, the balance of the LMIHF is not allowed to be retained above and beyond the approved bond payment amount for fiscal year 2012-13. As such it is not necessary to retain the requested funds.
- Since Redevelopment Property Tax Trust Fund funding were approved to pay the bond debt obligations for the Recognized Obligation Payment Schedule (ROPS) period July to December 2012 (ROPS II), Finance will only allow LMIHF obligations to be retained for the period January to June 2013 (ROPS III). LMIHF bond debt obligations totaling

\$338,365 were approved by Finance for the ROPS period January through June 2013. As such, Finance is adjusting the balance to reflect the \$338,365 in approved ROPS III expenditures.

The Agency's LMIHF balance available for distribution to the affected taxing entities continues to be \$8,719,322 (see table below).

LMIHF Balances Available For Distribution To Taxing Entities	
Available Balance per DDR:	\$ -
Finance Adjustments	
Add:	
Requested retained balance not supported:	\$ 9,057,687
Approved LMIHF expenditures for ROPS III:	(338,365)
Total LMIHF available to be distributed:	\$ 8,719,322

This is Finance's final determination of the LMIHF balances available for distribution to the taxing entities. HSC section 34179.6 (f) requires successor agencies to transmit to the county auditor-controller the amount of funds identified in the above table within five working days, plus any interest those sums accumulated while in the possession of the recipient.

If funds identified for transmission are in the possession of the successor agency, and if the successor agency is operated by the city or county that created the former redevelopment agency, then failure to transmit the identified funds may result in offsets to the city's or the county's sales and use tax allocation, as well as its property tax allocation. If funds identified for transmission are in the possession of another taxing entity, the successor agency is required to take diligent efforts to recover such funds. A failure to recover and remit those funds may result in offsets to the other taxing entity's sales and use tax allocation or to its property tax allocation. If funds identified for transmission are in the possession of a private entity, HSC 34179.6 (h) (1) (B) states that any remittance related to unallowable transfers to a private party may also be subject to a 10 percent penalty if not remitted within 60 days.

Failure to transmit the identified funds will also prevent the Agency from being able to receive a finding of completion from Finance. Without a finding of completion, the Agency will be unable to take advantage of the provisions detailed in HSC section 34191.4. Specifically, these provisions allow certain loan agreements between the former redevelopment agency (RDA) and the city, county, or city and county that created the RDA to be considered enforceable obligations. These provisions also allow certain bond proceeds to be used for the purposes in which they were sold and allows for the transfer of real property and interests into the Community Redevelopment Property Trust Fund once Finance approves the Agency's long-range property management plan.

In addition to the consequences above, willful failure to return assets that were deemed an unallowable transfer or failure to remit the funds identified above could expose certain individuals to criminal penalties under existing law.

Pursuant to HSC section 34167.5 and 34178.8, the California State Controller's Office (Controller) has the authority to claw back assets that were inappropriately transferred to the city, county, or any other public agency. Determinations outlined in this letter and Finance's Housing Assets Transfer letter dated September 27, 2012 do not in any way eliminate the Controller's authority.

Ms. Tucker-Schuyler
December 15, 2012
Page 3

Please direct inquiries to Kylie Le, Supervisor or Brian Dunham, Lead Analyst at
(916) 445-1546.

Sincerely,



STEVE SZALAY
Local Government Consultant

cc: Mr. Michael Huntley, Director of Planning, City of Montebello
Mr. Christopher Cardinale, Deputy City Attorney, City of Montebello
Ms. Kristina Burns, Manager, Los Angeles County Department of Auditor-Controller
California State Controller's Office



DEPARTMENT OF
FINANCE

EDMUND G. BROWN JR. • GOVERNOR

915 L STREET ■ SACRAMENTO CA ■ 95814-3706 ■ WWW.DOF.CA.GOV

December 17, 2012

Arlene Barrera, Division Chief
Auditor-Controller Tax Division
500 West Temple Street Room 484
Los Angeles, CA 90012

Dear Ms. Barrera:

The California Department of Finance (Finance) has reviewed the adjustments proposed by the Los Angeles County Auditor-Controller's Office pursuant to Health and Safety Code section 34186 (a). As part of our review, Finance considered all supporting documentation provided by those Successor Agencies that disputed the adjustments calculated by your Office.

Pursuant to our review, Finance is authorizing the following reductions to the Redevelopment Property Tax Trust Fund monies provided to the identified Successor Agencies for the payment of Finance-approved Enforceable Obligations for the January 2013 through June 2013 Recognized Obligation Payment Schedule (ROPS III):

Successor Agency	Proposed Adjustment	Approved Adjustment
Alhambra	202,953	202,953
Arcadia	1,167,999	-
Artesia	254,336	-
Avalon	266,002	266,002
Azusa	316,564	316,564
Baldwin Park	830,428	830,428
Bell	132,098	132,098
Carson	4,940,343	4,940,343
Cerritos	1,565,786	1,565,786
Claremont	296,648	296,648
Commerce	2,623,648	2,623,648
Covina	462,097	-
Cudahy	335,407	335,407

Culver City	11,559,393	11,559,393
Downey	100,000	100,000
Duarte	(32,186)	-
El Monte	(270,404)	-
Glendale	9,082,199	-
Glendora	1,355,902	1,355,902
Hawthorne	408,101	408,101
Industry Urban-	26,699	26,699
Inglewood	493,680	493,680
Irwindale	965,767	965,767
La Mirada	2,513,901	2,513,901
Lakewood	2,553,873	2,553,873
Lawndale	950,052	950,052
Long Beach	12,581,880	12,581,880
Los Angeles City	21,967,236	21,967,236
Lynwood	1,315,249	-
Montebello	3,304,303	3,304,303
Monterey Park	222,919	222,919
Norwalk	201,608	-
Paramount	809,295	809,295
Pasadena	11,181,893	11,181,893
Pico Rivera	33,249	-
Rancho Palos Verdes	83,186	-
Redondo Beach	485,022	485,022
Rosemead	20	20
San Dimas	33,207	33,207
San Fernando City	1,575,571	1,575,571

Santa Clarita	168,755	-
Santa Monica	7,511,352	7,511,352
Sierra Madre	262,154	262,154
Signal Hill	328,035	328,035
South El Monte	342,600	342,600
South Gate	48,162	48,162
Temple City	134,664	134,664
Torrance	48,000	48,000
Vernon	65,332	65,332
West Covina	1,453,446	1,453,446

Thank you for your attention to this matter. Please contact Chris Hill, Principal Program Budget Analyst, at (916) 445-1546 if you should have any questions or concerns.

Sincerely,



STEVE SZALAY
Local Government Consultant



EDMUND G. BROWN JR. • GOVERNOR

915 L STREET ■ SACRAMENTO CA ■ 95814-3706 ■ WWW.DOF.CA.GOV

December 18, 2012

Ms. Francesca Schuyler, Director of Finance
City of Montebello
1600 West Beverly Boulevard
Montebello, CA 90640-3932

Dear Ms. Schuyler:

Subject: Recognized Obligation Payment Schedule

This letter supersedes Finance's Recognized Obligation Payment Schedule (ROPS) letter dated October 20, 2012. Pursuant to Health and Safety Code (HSC) section 34177 (m), the City of Montebello Successor Agency (Agency) submitted a Recognized Obligation Payment Schedule (ROPS III) to the California Department of Finance (Finance) on September 5, 2012 for the period of January 1 through June 30, 2013. Finance issued its determination related to those enforceable obligations on October 20, 2012. Subsequently, the Agency requested a Meet and Confer session on one or more of the items denied by Finance. The Meet and Confer session was held on November 13, 2012.

Based on a review of additional information and documentation provided to Finance during the Meet and Confer process, Finance has completed its review of the specific item being disputed.

- Item No. 14 – Reimbursement Agreement with the City in the amount of \$3.1 million. Finance denied the item as HSC section 34171 (d) (2) states that agreements, contracts, or arrangements between the city that created the RDA and the former RDA are not enforceable. The Agency contends the item is an enforceable obligation because it is a written agreement issued to secure an "indebtedness obligation," as such term is defined at HSC Section 34171 (e). Under the 1990 Reimbursement Agreements, and all subsequent versions thereof, the City's lease payment obligations – and thus the stream of revenue flowing to the Certificates of Participation (COPs) – were paid from a portion of the Agency's tax increment revenues stemming from the Project Areas. HSC section 34171 (d) (2) states that written agreements entered into at the time of issuance, but in no event later than December 31, 2010, of indebtedness obligations, and solely for the purpose of securing or repaying those indebtedness obligations may be deemed enforceable obligations. Although the Reimbursement Agreement is solely for the purpose of securing or repaying indebtedness obligations, it was not entered into at the time of issuance of the indebtedness obligations. The Reimbursement Agreement was approved on September 5, 2000; the Official Statement and Purchase Agreement were dated October 12, 2000. Finance has not issued a Finding of Completion to the Agency; therefore, the provisions of HSC section 34171 apply. HSC section 34171 (d) (2) states that agreements, contracts, or arrangements between the city, county, or city and county that created the RDA and the former RDA are not enforceable obligations. Therefore, the item is currently not an enforceable obligation.

- Item No. 15 – Low Mod Housing Deferral Repayment in the amount of \$6.5 million. HSC section 34176 (e) (6) (B) states that loan or deferral owed to the Low and Moderate Income Housing Fund shall not be made prior to the 2013-14 fiscal year. Therefore, this line item is not enforceable obligation and will not be eligible for RPTTF funding at this time.
- Item No. 19 and 24 totaling \$45,000 are considered administrative expenses and should be counted toward the cap. Finance no longer reclassifies the items as administrative costs. The Agency contends the items are enforceable obligations because they are associated with litigation costs incurred in the case entitled Sevacherian, et al, v. Community Redevelopment Agency of the City of Montebello (Los Angeles County Superior Court Case No. BC437787), and maintenance costs for properties owned by the Agency. Finance agrees the following categories are specifically excluded from the administrative cap as defined by HSC section 34171 (b):
 - Any litigation expenses related to assets or obligations.
 - Settlements and judgments.
 - The costs of maintaining assets prior to disposition.
 - Employee costs associated with work on specific project implementation activities, including, but not limited to, construction inspection, project management, or actual construction, shall be considered project-specific costs.

Therefore, Item 19 is litigation expenses related to assets or obligations and Item 24 is the cost of maintaining assets prior to disposition and are therefore enforceable obligations.

In addition, per Finance's ROPS letter dated October 20, 2012, the following items not disputed by the Agency continue to be denied:

- Claimed administrative costs exceed the allowance by \$259,564. HSC section 34171 (b) limits the fiscal year 2012-13 administrative expenses to three percent of property tax allocated to the Agency or \$250,000, whichever is greater. As a result, the Agency is eligible for \$250,000 for administrative expenses. The Los Angeles Auditor-Controller's Office distributed \$250,000 of administrative costs for the July through December 2012 period, thus no administrative cost is available for distribution on the January through June 2013 period. Therefore, \$259,564 of excess administrative cost is not allowed.

The Agency's maximum approved RPTTF distribution for the reporting period is: \$3,718,072 as summarized below:

Approved RPTTF Distribution Amount For the period of January through June 2013	
Total RPTTF funding requested for obligations	\$ 5,586,765
Less: Six-month total for item(s) denied or reclassified as administrative cost	
Item 14	1,718,693
Item 15	150,000
Total approved RPTTF for enforceable obligations	\$ 3,718,072
Plus: Allowable RPTTF distribution for administrative cost for ROPS III	0
Total RPTTF approved:	\$ 3,718,072

Administrative Cost Calculation	
Total RPTTF for the period July through December 2012	\$ 3,319,323
Total RPTTF for the period January through June 2013	3,718,072
Total RPTTF for fiscal year 2012-13:	\$ 7,037,395
Allowable administrative cost for fiscal year 2012-13 (Greater of 3% or \$250,000)	250,000
Administrative allowance for the period of July through December 2012	250,000
Allowable RPTTF distribution for administrative cost for ROPS III:	\$0

Pursuant to HSC section 34186 (a), successor agencies were required to report on the ROPS III form the estimated obligations and actual payments associated with the January through June 2012 period. The amount of RPTTF approved in the above table will be adjusted by the county auditor-controller to account for differences between actual payments and past estimated obligations. Additionally, these estimates and accounts are subject to audit by the county auditor-controller and the State Controller.

The amount available from the RPTTF is the same as the property tax increment that was available prior to enactment of ABx1 26 and AB 1484. This amount is not and never was an unlimited funding source. Therefore, as a practical matter, the ability to fund the items on the ROPS with property tax is limited to the amount of funding available to the successor agency in the RPTTF.

Except for items disallowed as noted above, Finance is not objecting to the remaining items listed in your ROPS III. Obligations deemed not to be enforceable shall be removed from your ROPS. This is Finance's final determination related to the enforceable obligations reported on your ROPS for January 1 through June 30, 2013. Finance's determination is effective for this time period only and should not be conclusively relied upon for future periods. All items listed on a future ROPS are subject to a subsequent review and may be denied even if it was or was not questioned on this ROPS or a preceding ROPS.

Please direct inquiries to Evelyn Suess, Dispute Resolution Supervisor, or Mary Halterman, Analyst, at (916) 445-1546.

Sincerely,



STEVE SZALAY
Local Government Consultant

cc: On following page

Ms. Schuyler
December 18, 2012
Page 4

cc: Mr. Michael Huntley, Director of Planning, City of Montebello
Ms. Kristina Burns, Manager, Los Angeles County Department of Auditor-Controller
California State Controller's Office